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SUBJECT: U.S. EXPLORES ENVIRONMENTAL CRIMES COOPERATION WITH RUSSIA

REFS: A. MOSCOW 2366, B. Vladivostok 5

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11. (SBU) SUMMARY: Two conferences organized the week of October 2 in Vladivostok and Moscow highlighted both the importance of and challenges to increasing U.S.-Russian cooperation on environmental crimes. A 2007 prosecution of an Amcit for illegal hunting in Kamchatka failed in part because of DOJ's inability to obtain needed expert testimony from Russia refuting the defendant's claims that he was licensed to hunt the animals in question. Environmental enforcement in Russia has taken on even greater significance for the U.S. as a result of 2008 amendments to the Lacey Act which criminalized, among other things, the importation, sale and distribution of plants and timber obtained in violation of foreign law. Given the extent of illegal timber harvesting in the Russian Far East, the new legislation presents an opportunity for the U.S. to contribute to the protection of Russia's forests, which have been depleted by illegal logging. However, successful prosecutions will require proving that the initial harvesting was illegal under Russian law, which will, in turn, require much more effective U.S.-Russian cooperation in the area of environmental enforcement. The conferences left the clear impression that Russia's enforcement program is plagued by staggering corruption and inefficiency. A bright spot, though, was the positive experience of some Russian NGOs in cooperating with law enforcement. END SUMMARY.

12. (U) During the week of October 20, Post's Law Enforcement Section (LES), together with the World Wildlife Fund Russia (WWF) and the Vladivostok Transnational Crime and Corruption Center (TRACC), organized a conference in Vladivostok on environmental crime and enforcement. The conference was attended by approximately 60 Russian participants, including law enforcement and government officials, NGO activists, academic experts and researchers and private lawyers. U.S. participants included two prosecutors from

DOJ's Environmental Crimes Section, a Special Agent from the U.S. Fish and Wildlife Service, an expert from the U.S. Forest Service, Vladivostok CG and Poleconoff, and both Embassy Resident Legal Advisors. This was followed by a session in the Public Chamber in Moscow attended by representatives of various Russian NGOs and two representatives from the General Prosecutor's Office.

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Few Prosecutions Thanks to the "Ecomafia" at Work  
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13. (SBU) According to almost all the Russian experts at the Vladivostok conference, Russian environmental enforcement is hopelessly corrupt, and the future for Russia's forests and endangered species bleak. According to research presented by Gennady Zherebkin, a former prosecutor now with WWF, between 2000 and 2008 Russian law enforcement opened 5,618 criminal prosecutions against a total of 6,070 people for environmental violations. (Note: Illegal logging cases accounted for 4431, or 79 percent, of these. Illegal fishing accounted for 15 percent, while illegal hunting accounted for another 3 percent. End Note.) While these numbers may appear significant, according to Zherebkin, the majority of the cases (62 percent) were terminated before trial, an astonishing figure given that opening a criminal case under Russian law requires substantial evidence and that investigators can suffer adverse consequences for failing to successfully complete a case once opened.

14. (SBU) Moreover, according to Zherebkin and others, many of the cases that were sent to court were dismissed in court or resulted in minor sentences. For example, Zherebkin mentioned one case of illegal whaling dismissed by the judge on the grounds that the crime was "insignificant" and said that such occurrences were common.

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Another participant told us about a case involving a corrupt government inspector who was convicted and then sentenced to corrective labor at his job, an absurd result amounting to no sentence. There seems to be little doubt that such poor enforcement is the result of organized crime and corruption. As Professor Vitaliy Nomokonov, the head of the Vladivostok TRACC, told us, the high percentage of terminated cases shows "the mafia at work." Another expert from TRACC, Oleg Khrenkov, surveyed 100 environmental experts from the Russian Far East and found that 54 percent considered corruption to be the main reason for poor environmental enforcement in the Russian Far East.

15. (SBU) Privately, Russian experts provided us with numerous examples illustrating these conclusions. Several told us of honest environmental inspectors being threatened, killed, and having their houses burned down for pursuing cases. Others told us of sophisticated counter-surveillance techniques used by criminals including employing lookouts to watch for timber inspectors and warn loggers so that they disperse ahead of the inspections. One told us about how the fishing mafia uses GPS blocking systems to ensure that vessels involved in illegal fishing cannot be tracked by investigators. Several told us that the illegal traffic in plants and wildlife is supported by high government officials, and two mentioned that the son of a Presidential Representative is one of those protecting the trade. Others said that the corruption is so widespread that it is impossible to combat. For example, one participant told us about a local official who, when informed that his inspectors were taking bribes from illegal loggers, addressed the problem by forbidding the inspectors from having any contact with the loggers and to simply let them pass without any inspection.

16. (SBU) In addition to corruption, the conference highlighted other enforcement problems. For example, 71 percent of the experts surveyed by Khrenkov identified "insufficient legal and material-technical support" as the main cause of poor environmental enforcement. Specific problems include: the lack of an adequate log tracking system, making it impossible for inspectors to determine whether timber has come from a protected or an unprotected area; overlapping and conflicting responsibilities of different enforcement agencies; constant administrative reorganizations,

resulting in a lack of institutional knowledge; a collective "brain drain"; poorly drafted and inadequate regulations; low salaries for enforcement officials; and lack of equipment and training for law enforcement agencies.

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NGO Cooperation with Law Enforcement A Bright Spot  
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17. (SBU) However, there were some bright spots. For example, several NGO representatives said that they had been able to work successfully with some law enforcement officials. Zhrebkin said that when WWF investigators compiled evidence of illegal logging and hunting, presented it to law enforcement officials, and followed the cases through the legal system, they had been able to ensure successful prosecutions. Another WWF official told us of successful training programs conducted by WWF for fishing and hunting inspectors, though he noted that the forest inspectors are too corrupt and will not even attend joint conferences without being bribed to do so.

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Public Chamber Roundtable  
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18. (SBU) The Vladivostok program was followed by a roundtable at the Public Chamber on October 23 attended by a variety of Russian experts, NGO representatives, and two representatives of the General

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Procuracy. The picture that emerged was largely similar to that presented in Vladivostok. Russia Greenpeace director Ivan Blokov said that the logging enforcement situation is even worse than indicated by Zhrebkin's statistics and pointed out that virtually all timber exports are technically illegal absent regional forest plans and regulations, which can be adopted only after appropriate environmental impact studies, which have not been conducted in most relevant regions. U.S. experts then presented a series of specific recommendations, including developing environmental whistleblower statutes and an environmental crimes hotline and improving legal mechanisms for bringing civil actions independent of criminal cases. These were received with great interest and have already been distributed to appropriate Russian contacts.

19. (SBU) Comment: While the general picture is bleak, the newly formed Bilateral Presidential Commission's Environmental Working Group and the Lacey Act amendments provide an opportunity to draw increased international attention to environmental protection in Russia. Moreover, the positive experience of WWF suggests that U.S. support for such programs is worthwhile and should be continued. Continued support for USAID-funded U.S. Forest Service programs focused on developing a log tracking system is essential if Russia is to be a partner in Lacey Act enforcement. Given that timber harvested illegally in the Russian Far East typically passes through China on its way to the U.S., effective Lacey Act enforcement will require close operational cooperation between U.S., Russian and Chinese law enforcement. One possible next step is to explore the possibility of forming a trilateral law enforcement working group. Given the extent of law enforcement corruption, supporting the efforts of private attorneys to bring environmental suits also appears worthwhile, and Post will explore the possibility of a seminar on private environmental litigation.

110. (SBU) Comment, continued: A third option is to explore further diplomatic efforts to follow up on the St. Petersburg Ministerial Declaration made during the 2005 Europe and North Asia Forest Law Enforcement and Governance conference (ENA FLEG), in which 44 governments, including Russia and the United States, expressed their intent to take action to improve forest governance and combat illegal logging and associated forest crimes. The Declaration included an Indicative List of Actions to implement the declaration and called for a second Ministerial within five years to assess progress and decide on further actions. The Indicative List includes national-level actions, including on policy framework, legislation systems, institutions, sustainable forest management, and rural development, as well as international initiatives, such as

forest-related policies, trade and customs, and collaborative implementation.

¶11. (U) Post expresses its gratitude to Consulate General Vladivostok, DOJ/ECS, USFWS, and USFS for their outstanding participation in this program. Vladivostok CG Tom Armbruster cleared this cable.

BEYRLE